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Susan F. Tierney, Chair
Ocean Management Task Force
Executive Office of Environmental Affairs
251 Causeway Street
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COASTAL ZONE MANAGEMENT
Exec. Office of Environmental Affairs

December 12, 2003

Dear Ms. Tierney,

I was one of the founding directors and first chairman of the Massachusetts chapter of the Coast Conservation Association and am serving in my tenth year as a member of the Massachusetts Marine Fisheries Commission. I commented on the OMT's draft proposal last night in Yarmouth and was asked to submit my comments in writing. They are as follows.

First, I want to defend the Division of Marine Fisheries and the Marine Fisheries Commission which helps guide its actions and policies against mischaracterizations that may have been inserted to support a controversial political agenda.

The justification for Recommendation # 9 states, "Existing state authorities do not adequately protect marine species and habitats." That's a breathtakingly broad and inaccurate generalization, or should I say indictment of the Division of Marine Fisheries, which has long been recognized as a leader in conservation along the east coast. We have typically had larger minimum sizes and more restrictive catch limits than other coastal states for a number of species including scup, black sea bass, and striped bass. Years ago we enacted spawning area closures to protect spawning fish such as flounder. Ten years ago we outlawed dragging in eel grass beds in Nantucket Sound by squid fishermen to protect the habitat, fish, and invertebrates. And the division's scientists take a strong line in defense of our marine resources when asked to evaluate impacts from proposed development, such as the Hubline gas pipeline.

Recommendation # 10 has in its justification the blanket statement that there is a "general lack of understanding (as to type, distribution, abundance) of marine species and habitats that require special attention." That's just not true. And how could it be? We monitor the efforts of thousands of commercial and hundreds of thousands of recreational fishermen in a narrow 3-mile wide band of coastal waters, and in partnership with NMFS carry out rigorous scientific trawl surveys in the spring and fall. We certainly don't know everything, but we don't have a "general lack of understanding."

I'm concerned that mischaracterizations such as these may be put forth as justification for the fairly radical idea introduced in Recommendation # 9 that would allow closing "productive fishing grounds" for "general ecological research" or to "protect and study marine biodiversity." This language appears to slip into the draft a very divisive national issue that will be debated in the next session of Congress: marine protected areas in which there would be no commercial or recreational fishing allowed, without requiring scientific proof that such fishing was harming the habitat or the resource. Most members of the fishing community think the burden of proof needs to be the other way around. Sound scientific

evidence of deleterious effects on the habitat or the resource should be required before closing productive fishing grounds to some or all traditional users.

Inclusion of this highly controversial issue in the draft principles – especially under cover of the charge that DMF isn't doing its job – can only engender public opposition to the final recommendations. It would be more appropriate for the draft recommendations to recognize the importance of DMF as a key agency in ocean stewardship and propose to strengthen the agency's hand and meager budget, enabling it to do an even better job.

Second, the cover letter and the recommendations incorrectly circumscribe the Commonwealth's jurisdiction over coastal waters.

An important extension to the Commonwealth's jurisdiction over off-shore waters was enacted by the U.S. Congress in the Magnuson-Stevens Fishery Conservation and Management Act (Section 306(97-453, 98-62). It says Massachusetts has the responsibility and obligation to manage the marine fisheries resources, habitat, and fishing activity in all of Nantucket Sound, including the central portion outside the 3-mile limit. This is a very important responsibility because essential fish habitat areas in the center of the Sound help support the extensive commercial and recreational fishing activities south of the Cape.

There is a provision in the energy bill before the U.S. Congress that would grant broad discretionary powers to the Bureau of Mining and Land Management to lease public lands and manage industrial projects in federal near-shore waters, such as the center of Nantucket Sound, bypassing review by federal environmental agencies. It would seem to be prudent for the OMT to publicly recognize the Commonwealth's jurisdiction over this area in its recommendations, proposed GIS mapping, etc.

Third, on the basis of the OMT's analysis of the current state of affairs in ocean management, a moratorium on new projects is called for.

The draft laudably calls for an ethic of ocean stewardship requiring a comprehensive Ocean Resource Management Act. It asserts we need to establish basic standards for allowable uses, which we don't have now. It says we need to determine the shortcomings in our existing legal/regulatory/policy framework. It says we need better coordination on project reviews involving Ocean Sanctuary areas. It says we need to develop standards, which we don't have now, for analyzing visual, cultural and aesthetic impacts of proposed projects. It says we need better data and better public dissemination of it, to assist managers and the public in assessing environmental impacts and suitability.

The underlying theme of the draft recommendations is that the Commonwealth needs to do a lot to get up to speed to responsibly evaluate major projects proposed for our coastal waters in a way that adequately protects our public trust resources. The logical implication is that we need Recommendation # 16, which would call for a moratorium on major, new projects of any kind in state waters until such time as the task force's enabling recommendations are implemented, and we can proceed with an understanding that we are doing the right things and prohibiting the wrong things. Absent such a moratorium, one might expect a gold rush of developers seeking to exploit public resources before a much-needed Ocean Resource Management Act becomes law.

Thank you for your consideration of these remarks.

Sincerely,

Mark Weinman